



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

DATE: March 8, 2016

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary
Steve Ingham, Division of Food Safety Administrator

SUBJECT: Licensing Bulk Milk Tankers; Final Draft Rule

PRESENTED BY: Peter Haase

REQUESTED ACTION:

At the March 22, 2016, Board meeting, the Department of Agriculture, Trade and Consumer Protection ("Department") will ask the Board to approve a final draft rule (copy attached) of a modified ch. ATPC 82 (Bulk Milk Collection, Sampling, and Transportation). The proposed rule adopts recent statutory revisions eliminating both licensing and license fee requirements for bulk milk tankers. It also adopts a very recent change in the *Grade "A" Pasteurized Milk Ordinance* (PMO) that changes the mandated bulk milk tanker inspection frequency from at least once every 12 months to at least once every 24 months.

SUMMARY:

Background

Wisconsin has the nation's largest number of licensed dairy farms; the milk from each of these farms is shipped to one of more than 400 licensed dairy plants in the state, or to a licensed dairy plant in another state. Approximately 4,000 bulk milk tankers from Wisconsin and other states deliver milk to Wisconsin dairy plants.

In the past, Wisconsin required the owner of bulk milk tankers used to transport Grade "A" milk and milk products to hold a bulk milk tanker license and a Grade "A" permit for each tanker. The Department charged a licensing fee of \$45 and issued a Grade "A" permit as an endorsement on the license. 2015 Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements. This change aligns Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a tanker license and a Grade "A" permit.

Rule Content

This rule incorporates recent statutory changes eliminating bulk milk tanker licensing and license fee requirements into ch. ATPC 82. The rule maintains the requirement that bulk milk tankers hauling Grade "A" milk and dairy products in Wisconsin must hold a Grade "A" permit issued by

Agriculture generates \$59 billion for Wisconsin

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • 608-224-5012 • Wisconsin.gov

An equal opportunity employer

the Department or the appropriate regulatory agency in another state. A permit issued in Wisconsin has no associated fee, but the rule does adopt a modest increase in the reinspection fee to cover the Department's cost for those reinspections. Reinspections are conducted when the Department finds that a tanker has a regulatory violation. The proposed rule increases the reinspection fee from \$45 to \$60. Few bulk milk tankers receive reinspections. In 2014, only 13 tankers were reinspected. This rule also adopts a new bulk milk tanker inspection frequency, at least once every 24 months, which was incorporated in the 2015 version of the PMO.

Comparison with Rules in Adjacent States

Michigan, Minnesota, Iowa, and Illinois adopt the PMO as part of their dairy regulations. The proposed rule will align Wisconsin's regulations with the PMO and these neighboring states for licensing, permitting, and inspection of Grade "A" bulk milk tankers. Each of these states inspects milk tankers, and issues a Grade "A" permit after inspection. Some states also charge a fee associated with these inspections.

In 2015, the National Conference for Interstate Milk Shipments, with FDA concurrence, changed the mandatory bulk milk tanker inspection frequency in the PMO from at least once every 12 months to at least once every 24 months with an inspection conducted on any date in the 24th month since the previous inspection being accepted as compliant. By maintaining consistency with the PMO, Wisconsin's rule will be consistent with requirements in Michigan, Minnesota, Iowa, and Illinois.

Public Hearings

The Department held three public hearings:

January 22, 2016	State Office Building, Green Bay, Wisconsin
January 25, 2016	State Office Building, Eau Claire, Wisconsin
January 27, 2016	Farmer's and Merchants' Bank, Tomah, Wisconsin.

There were no attendees, and no written or oral comments were received.

Changes from the Hearing Draft

The Department made the following substantive changes from the hearing draft.

- ATCP 82.02 (7) (b) is recreated to read:

ATCP 82.02 (7) (b) An application for a grade "A" permit under par (a) shall include proof that the bulk milk tanker has passed an inspection by the department or by a certified industry inspector under sub. ATCP 82.02 (8) within the 24 months before the last day of the month in which the application was made.

This was done to reflect a recent change in the PMO and to keep Wisconsin's rule from being stricter than neighboring states or the PMO.

- ATCP 82.02 (2) dm was deleted in recognition of the Legislative Council Rules Clearinghouse comment that the Department did not have the authority under ch. 97, Stats. to accept an out-of-state inspection. The language in ATCP 82.02 (7) (b), cited above, was amended to reflect the requirement that the inspection be performed either by the Department or a certified industry inspector.

Next Steps

If the Board approves this final draft rule, the Department will transmit the final rule to the Governor for his written approval. After the Department receives written approval from the Governor, the Department will submit the rule to the Legislature for review by appropriate legislative committees. If the Legislature has no objections to the rule, the Secretary will sign the final rulemaking order and transmit it for publication.

**PROPOSED ORDER
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

1 The Wisconsin department of agriculture, trade and consumer protection hereby proposes the
2 following rule *to repeal* ATCP 82.02 (1) and ATCP 82.02 (4); *to amend* ATCP 82.02 (title),
3 (intro.,), (d), and (e), ATCP 82.02 (3), ATCP 82.02 (5), ATCP 82.02 (6) , and ATCP 82.02 (7)
4 (d) (intro.); and *to create* ATCP 82.02 (1m); and *to repeal and re-create* ATCP 82.02 (7);
5 *relating to* bulk milk tanker permitting regulations, and affecting small business.

Statutes Interpreted

Statute Interpreted: s. 97.21, Stats. (Milk haulers and milk distributors).

Statutory Authority

Statutory Authority: ss. 93.07 (1), 97.09 (4), and 97.21 (6), Stats.

Explanation of Statutory Authority

The Department has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The Department also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The Department has specific authority to promulgate rules related to milk haulers in s. 97.21(6), Stats., which allows the Department to establish rules related to the following: fees and regulations for bulk milk tanker operators and milk distributors; standards for the construction, maintenance and sanitary operation of bulk milk tankers, milk distribution vehicles and milk distribution facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; storage and handling of milk and fluid milk products; identification of bulk milk tankers and milk distribution vehicles; and record keeping.

Related Statutes and Rules

Wisconsin's milk haulers are governed by ch. 97, Stats. (Food Regulation). Milk haulers and milk distributors are regulated under s. 97.21, Stats., (Milk haulers and milk distributors). Chapter 82, Wis. Adm. Code, interprets ch. 97, Stats., as it relates to milk haulers and milk distributors.

Plain Language Analysis

In the past, Wisconsin required the owner of a bulk milk tanker used to transport Grade "A" milk and milk products to hold both a bulk milk tanker license and a Grade "A" permit for that tanker. The Department charged a licensing fee of \$45 and issued a Grade "A" permit as an endorsement on the license. 2015 Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements and aligned Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a bulk milk tanker license and a Grade "A" permit. The proposed rule continues the alignment of Wisconsin with other states by maintaining the requirement that a Grade "A" permit cannot be issued to a bulk milk tanker unless that tanker has passed an inspection by the Department or a Wisconsin certified industry inspector within the preceding 24 months. Reciprocity of the Grade "A" bulk milk tanker permit is required by the US Food and Drug Administration's Pasteurized Milk Ordinance (PMO), a cooperative agreement that governs the interstate shipment of Grade "A" milk and milk products and is the basis of each state's Grade "A" milk requirements. The Department proposes to incorporate these revisions into ATCP 82 to reflect these recent statutory and PMO changes and remain consistent with the PMO.

The rule also adopts a modest increase in the bulk milk tanker reinspection fee, so that it covers Department costs. Reinspections are conducted by the Department to verify that appropriate corrective actions have been taken, after an initial inspection indicates a bulk milk tanker does not meet one or more regulatory requirements. In 2014, only 13 tankers required reinspection. The proposed rule increases the reinspection fee from \$45 to \$60.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

The PMO establishes minimum standards for regulation of Grade "A" milk and milk products. States must set regulatory standards equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk and milk products in interstate commerce.

Comparison with Rules in Adjacent States

Michigan, Minnesota, Iowa, and Illinois base their dairy regulations on the PMO. The proposed rule will align Wisconsin's regulations with the PMO and these neighboring states for licensing and permitting of Grade "A" tankers. Each of these states inspects bulk milk tankers, and issues a Grade "A" permit after inspection. Some states charge a fee associated with these Grade "A" inspections.

In 2015, the National Conference for Interstate Milk Shipments, with FDA concurrence, changed the mandatory bulk milk tanker inspection frequency in the PMO from at least once every 12 months to at least once every 24 months with an inspection conducted on any date in the 24th month since the previous inspection being accepted as compliant. By maintaining consistency with the PMO, Wisconsin's rule will be consistent with requirements in Michigan, Minnesota, Iowa, and Illinois.

Summary of Factual Data and Analytical Methodologies

Proposed rule changes were developed in response to recent statutory changes after a review of PMO requirements and a review of practices in neighboring states.

Analysis and Supporting Documents used to Determine Effect on Small Business

The PMO makes no distinction between large and small businesses in establishing requirements for collection, sampling and transport of Grade "A" milk and milk products.

Effect on Small Business

By eliminating licensing fees, the proposed rule changes will benefit those dairy producers, dairy plants, and companies that operate bulk milk tankers, many of which are small businesses. The proposed rule includes a modest increase in the reinspection fee from \$45 to \$60, to cover the current cost of reinspection. This fee would only be charged if the Department finds a regulatory violation necessitating corrective action and a reinspection. In 2014, only 13 owners of bulk milk tankers were charged a reinspection fee. All Grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the FDA's PMO in order to collect, sample, and transport Grade "A" dairy products. The PMO allows for no special accommodations for small businesses.

DATCP Contact

Peter Haase, Director
Bureau of Food Safety and Inspection
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4711
E-Mail: Peter.Haase@Wisconsin.gov

1 **SECTION 1.** ATCP 82.02 (title) is amended to read:

2 ATCP 82.02 (title) **Bulk milk tanker; license; grade A permit.**

3 **SECTION 2.** ATCP 82.02 (1) is repealed.

4 **SECTION 3.** ATCP 82.02 (1m) is created to read:

5 **(1m)** PERMIT REQUIRED. No person may operate a bulk milk tanker to transport milk or
6 fluid milk products for sale or use as grade A milk or grade A dairy products unless the
7 department, or an equivalent regulatory agency in another state, has issued a valid grade A
8 permit for that bulk milk tanker and the information required under sub. (7) (d) is displayed on
9 the bulk milk tanker as required under sub. (7) (e). A grade A permit is not transferable between
10 bulk milk tankers.

11 **SECTION 4.** ATCP 82.02 (2) (title) is amended to read: ~~LICENSE APPLICATION PERMIT~~
12 APPLICATION

13 **SECTION 5.** ATCP 82.02 (2) (intro.) is amended to read:

14 **(2)** An application for a license grade A permit under sub. ~~(1)~~ (1m) shall be made on a
15 form provided by the department. An application shall include all of the following:

16 **SECTION 6.** ATCP 82.02 (2) (d) is amended to read: ATCP 82.02 (2) (d) Any other
17 information which the department reasonably requires for identifying and ~~licensing~~ permitting of
18 the bulk milk tanker.

19 **SECTION 7.** ATCP 82.02 (2) (e) is amended to read:

20 ATCP 82.02 (2) (e) All applicable fees and surcharges required under subs. ~~(4) to (5)~~
21 and (6).

1 **SECTION 8.** ATPC 82.02 (3) is amended to read:

2 **(3) ACTION ON ~~LICENSE~~ PERMIT APPLICATION.** (a) The department shall grant or deny a
3 ~~license permit~~ application under sub. (2) within 40 30 days after the department receives a
4 completed application.

5 (b) The department shall not issue or renew a ~~license~~ permit until the applicant has paid
6 all applicable fees and surcharges, set forth in a statement from the department, that are due and
7 payable by the applicant under this section. The department shall refund a fee paid under protest
8 if, upon review, the department determines that the fee is not due and payable.

9 **SECTION 9.** ATPC 82.02 (4) is repealed.

10 **SECTION 10.** ATPC 82.02 (5) is amended to read

11 **(5) REINSPECTION FEE.** (a) If the department reinspects a bulk milk tanker because the
12 department finds a violation of ch. 97, Stats., or this chapter, the department shall charge the bulk
13 milk tanker operator a reinspection fee. The reinspection fee is payable when the reinspection is
14 completed, and is due upon written demand from the department. The department may issue a
15 demand for payment when it issues a ~~license~~ permit renewal application to the bulk milk tanker
16 operator, or at any other time after the fee becomes effective.

17 (b) The reinspection fee under par. (a) is \$45 \$60.

18 **SECTION 11.** ATPC 82.02 (6) is amended to read:

19 **(6) SURCHARGE FOR OPERATING WITHOUT A ~~LICENSE~~ PERMIT.** (a) An applicant for a bulk
20 milk tanker ~~license-fee permit~~ shall pay a ~~license-permit~~ surcharge of \$100 if the department
21 determines that, within 365 days prior to submitting the ~~license~~ permit application, the applicant
22 operated a bulk milk tanker without a ~~license~~ or grade A permit in violation of sub. (1) (1m) or
23 (7).

1 (b) In addition to paying the ~~license fee~~ permit surcharge under par. (a), an applicant who
2 violated sub. ~~(1)~~ (1m).or (7). shall pay all fees, set forth in a statement from the department, that
3 are due and payable for the ~~license~~ permit year in which the applicant violated sub. ~~(1)~~ (1m) or
4 (7).

5 (c) Payment of the ~~license~~ permit surcharge and past fees under pars. (a) and (b) does not
6 relieve the applicant of any other civil or criminal liability which results from a violation of sub.
7 ~~(1)~~ (1m) or (7), but does not constitute evidence of any violation of law.

8 **SECTION 12.** ATCP 82.02 (7) is repealed and re-created to read:

9 **(7) GRADE A PERMIT DISPLAY.** (a) An application for a grade A permit shall include proof
10 that the bulk milk tanker has passed an inspection by the department or by a certified industry
11 inspector under sub. ATCP 82.02 (8) within the 24 months before the last day of the month in
12 which the application was made.

13 (b) The holder of a grade A permit under sub. (1m) shall display all of the following
14 information, in the manner required under par. (c), on both sides of the bulk milk tanker to which
15 the permit applies:

16 1. The grade A permit identification number.

17 2. Identification of the state that issued the grade A permit. The state identification may
18 be expressed as the full state name, the official two letter postal code abbreviation for the state,
19 or the national uniform code issued for that state by the National Institute of Standards and
20 Technology, U.S. Department of Commerce, Bureau of the Census, and available online
21 at <http://www.itl.nist.gov/fipspubs/>.

1 **Note:** For example, permits issued by the department may display the full state name,
2 "Wisconsin," the two letter postal code state abbreviation "WI," or the national uniform code
3 "55."

4 (c) The information display, under par. (b), shall be permanently attached to the bulk
5 milk tanker. The color of the letters and numbers shall be in sharp contrast to the background on
6 which the letters and numbers are displayed. Each letter and number comprising the information
7 shall be at least 2 inches in height and readily legible during daylight hours while the bulk milk
8 tanker is stationary. The permit holder shall maintain the display so that it remains fully legible
9 at all times.

10 **SECTION 14. EFFECTIVE DATE AND INITIAL APPLICABILITY.** This rule takes effect on
11 the first day of the month following publication in the Wisconsin administrative register, as
12 provided under s. 227.22(2)(intro.).

13

Dated this _____ day of _____, 2016.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Ben Brancel, Secretary

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Bulk Milk Collection, Sampling, and
Transportation
Adm. Code Reference: ATCP 82
Rules Clearinghouse #: 15-094
DATCP Docket #: 15-R-07

Rule Summary

The following proposed rule changes are needed to bring ch. ATCP 82 in alignment with recent statutory changes that eliminated licensing and license fees for bulk milk tanker operators.

Wisconsin has the nation's largest number of licensed dairy farms; the milk from each of these farms is shipped to one of more than 400 licensed dairy plants in the state, or to a licensed dairy plant in another state. Approximately 4,000 bulk milk tankers from Wisconsin and other states deliver milk to Wisconsin dairy plants.

In the past, Wisconsin required each owner of a bulk milk tanker used to transport Grade "A" milk and milk products to hold a bulk milk tanker license and a Grade "A" permit for the tanker. The Department charged a licensing fee of \$45 and issued a Grade "A" permit as an endorsement on the license. 2015 Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements, and aligning Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a tanker license and a Grade "A" permit. The Department proposes revising ATCP 82 to reflect these statutory changes.

As part of this rule revision, the Department also proposes to remove a confusing provision related to employees of companies that own bulk milk tankers. The current rule states that an employee who drives a bulk milk tanker is not required to obtain a separate Grade "A" permit to drive the truck, if the owner of the bulk milk tanker already has a Grade "A" permit for the tanker. However, this provision is unnecessary as an employee who drives a bulk milk tanker already bearing a Grade "A" permit would never be expected to acquire a separate Grade "A" permit. The original intent of the rule was to exempt an employee who drives a bulk milk tanker holding Grade "A" milk from the requirement to hold a bulk milk weigher and sampler license if the employee does not weigh or sample the milk. This requirement is implicitly stated in sub. ATCP 82.04 (1).

More recently, we have revised par. ATCP 82.02 (7) (b) to indicate that a Grade "A" permit cannot be issued to a bulk milk tanker unless that tanker has passed an inspection by the Department or a Wisconsin certified industry inspection within the preceding 24

months. This revision maintains consistency between the rule, the federal Pasteurized Milk Ordinance (PMO), and regulations in neighboring states.

Finally, the Department is proposing to adopt a modest increase in the reinspection fee. Reinspections are conducted when the Department finds that a tanker has a regulatory violation. Few bulk milk tankers receive reinspections. In 2014, only 13 tankers were reinspected. Currently, the reinspection fee is \$45; the proposed rule recommends an increase of this fee to \$60.

Small Businesses Affected

By eliminating licensing fees, the proposed rule changes will benefit dairy producers, dairy plants, and companies that operate bulk milk tankers, many of which may be small businesses. The proposed rule includes a modest increase in the reinspection fee, from \$45 to \$60. This fee would only be charged if the Department finds a regulatory violation. In 2014, only 13 bulk milk tankers were reinspected.

The decrease in the bulk milk tanker inspection frequency would result in a savings for industry if a company conducted their own bulk milk tanker inspections under the certified industry inspection program described in sub. ATCP 82.02 (8).

All Grade “A” dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport Grade “A” milk and milk products, and no special accommodation may be made for small businesses.

Reporting, Bookkeeping and other Procedures

The rule would not require any additional reporting, bookkeeping or other procedures.

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

All Grade “A” dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport Grade “A” milk and milk products. The PMO contains no provision for special accommodation for small businesses.

Conclusion

The provisions in this proposed rule will benefit Wisconsin’s dairy industry by clarifying Grade “A” permit requirements for milk tankers. It will abolish a fee, previously charged for a bulk milk tanker license. Implementation costs associated are expected to be minimal and the rule does not increase license or permit fees.

This rule will not have a significant adverse effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22(2)(e), Stats.

The Department will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this 14th day of March, 2016.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Steven C. Ingham
Steven C. Ingham, Administrator,
Division of Food Safety

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

ATCP 82, Bulk Milk collection, sampling, and transportation

3. Subject

Repealing bulk milk tanker licensing requirement, decreasing bulk milk tanker inspection frequency, and increasing bulk milk tanker reinspection fee

4. Fund Sources Affected

☒ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.115(1)(gb)

6. Fiscal Effect of Implementing the Rule

☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☒ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☒ State's Economy ☒ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☒ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

2015 Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license requirements. The proposed rule change harmonizes ch. ATCP 82 with the revised statute. The proposed rule change harmonizes the minimum bulk milk tanker inspection frequency with the federal Pasteurized Milk Ordinance and regulations in neighboring states. The current bulk milk tanker reinspection fee, although seldom charged, does not cover the costs of bulk milk tanker reinspection.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule change generally affects the dairy industry, and specifically affects businesses operating bulk milk tankers. The Department contacted the Dairy Business Association, the Cooperative Network, the Wisconsin Milk Haulers Association, the Wisconsin Association of Dairy Plant Field Representatives, the Wisconsin Cheese Makers Association, and the Wisconsin Dairy Products Association. No comments on the economic impact of the proposed rule change were received.

11. Identify the local governmental units that participated in the development of this EIA.

Grade "A" standards for bulk milk collection, sampling, and transportation are regulated by the State of Wisconsin's Department of Agriculture, Trade and Consumer Protection. Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule eliminates a license fee of \$45 for each bulk milk tanker operating in Wisconsin, thereby reducing costs for milk hauling firms. The proposed rule increases the fee for a bulk milk tanker reinspection. This reinspection is done to verify corrective actions taken by a bulk milk tanker operator to bring the bulk milk tanker into regulatory compliance. Reinspections of this type are infrequent (e.g., 13 in 2014).

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Failure to make the proposed rule change could create confusion resulting from the contradiction between statutes and rules affecting operators of bulk milk tankers. It could result in unlicensed bulk milk tankers from other states being turned away from Wisconsin dairy plants without being able to deliver or pick up Grade "A" milk or milk products-even when these tankers carry a Grade "A" permit. The bulk milk tanker reinspection fee does not cover costs incurred in conducting the reinspection. Failure to raise the fee would necessitate use of other funding streams to cover costs.

14. Long Range Implications of Implementing the Rule

Implementing this rule will ensure that Wisconsin continues to maintain substantial compliance with the PMO and can continue to ship Grade "A" milk and milk products in interstate commerce. It will ensure that Wisconsin's dairy-related businesses continue to compete fairly against dairy businesses in other states that do not require a license in addition to a Grade "A" permit for bulk milk tankers.

15. Compare With Approaches Being Used by Federal Government

The Food and Drug Administration's (FDA's) Grade "A" Pasteurized Milk Ordinance (PMO) establishes minimum regulatory standards for Grade "A" dairy products. States must enact standards substantially equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk in interstate commerce. The proposed rule changes are consistent with the PMO.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Michigan, Minnesota, Iowa, and Illinois adopt the PMO as part of their dairy regulations. The proposed rule will align Wisconsin's regulations with the PMO and neighboring states for permitting of Grade "A" tankers. Each of these states issues a Grade "A" permit after inspection of a bulk milk tanker. Some states charge an inspection fee associated with these inspections.

17. Contact Name	18. Contact Phone Number
Pete Haase, Director-Bureau of Food Safety and Inspection	(608) 224-4711

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

-
1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

This rule is expected to have a positive impact and will not have an adverse effect on small business. It does not alter requirements small dairy-related businesses already meet. It eliminates license fees.

-
2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The agency requested comment on the potential economic impact of the rule from the following organizations: Dairy Business Association, Professional Dairy Producers of Wisconsin, Cooperative Network, Wisconsin Milk Haulers Association, Wisconsin Association of Dairy Plant Field Representatives, Wisconsin Cheesemakers Association, and the Wisconsin Dairy Products Association. No comments were received on the economic impact of this rule.

-
3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☒ Less Stringent Compliance or Reporting Requirements
☒ Less Stringent Schedules or Deadlines for Compliance or Reporting
☒ Consolidation or Simplification of Reporting Requirements
☒ Establishment of performance standards in lieu of Design or Operational Standards
☒ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

-
4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

While the agency considered methods for reducing the impact of the rule on small businesses, all Grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport Grade "A" dairy products. No special accommodation may be made for small businesses. Other provisions in the rule will not substantially alter current practice.

-
5. Describe the Rule's Enforcement Provisions

The proposed rule does not modify existing enforcement provisions related to the collection, sampling, and transportation of milk. All food, dairy, and state-inspected meat businesses are regulated under Chapter 97 of the Wisconsin Statutes. Enforcement provisions for these businesses are outlined in s. 97.72 and 97.73, and apply to both small and large businesses. ATPC 82.16 also contains specific provisions against falsifying records or reports required under ATPC 82, including records related to milk samples and records describing the amount of milk collected from a dairy farm.

-
6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No
